IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ petition NO. 956 of 2005

Konega International Pvt. Ltd... ... Petitioners

vs.

Union of India and ors. . ... Respondents

Mr. M.M.Jayakar with Meha Bhide
i/b. Khaita & Jaykar for Petitioners
Usha Narsivhan i/b. R. C. Dalal for Respondent no.2.
Mr. S. M.Shah for Respondents 1, 3 and 4.

CORAM: **S. RADHAKRISHNAN**
AND
A. S. AGUIAR J.J.

Date: 7/6/2005

P.C.

Rule. Rule made returnable forthwith.

1. Heard learned counsel for the Petitioners and the Respondents. Learned counsel for Respondents waives service.

By this petition the Petitioners are challenging the order dated 27th September 2004 passed by the 2nd Appellate Authority. According to Shri Jaykar learned counsel for the Petitioners, the main grievance in the petition is that the Petitioners by their letter dated 24th September 2004 had sought a very short adjournment of the matter in view of certain unavoidable circumstances as indicated in the said letter.

Unfortunately, it appears that no adjournment was granted and the hearing appears to have been proceeded with. Hence learned counsel for Petitioners submits that the Petitioners did not have a fair and reasonable opportunity to submit their case before the 2nd Appellate Authority.

2. In view of the above undisputed position that the Petitioners were not afforded a fair opportunity of hearing we are inclined to quash and set aside the impugned order dated 27th September 2004 passed by the 2nd Appellate Authority and direct the 2nd Appellate Authority to hear the Petitioners and pass appropriate orders, strictly in accordance with law on its own merits. The 2nd Appellate Authority is at liberty to fix an appropriate date and give atleast 4 weeks advance notice thereof, so as to enable the Petitioners to have a full-fledged hearing in the above matter. Rule is made absolute in the above terms.

S. RADHAKRISHNAN J.

A. S. AGUIAR J.

-x-